

## News Briefs

### ARB TO PROPOSE LISTING TOBACCO SMOKE AS A TOXIC AIR CONTAMINANT

The Air Resources Board plans later this year to propose to list environmental tobacco smoke (ETS), or second-hand smoke, as a toxic air contaminant (TAC). The move could lead to new regulations on cigarette companies, private businesses and government agencies to reduce smoke exposure. It is unclear what new regulations may be proposed; businesses and government agencies statewide could be required to prohibit smoking on outdoor property; hotels could conceivably be required to prohibit smoking on any part of their premises; and conceivably, individuals could be held accountable for exposure to children, according to some sources.

ETS is already listed on the state's Proposition 65 cancer list. Health and environmental groups have already threatened to sue hotels for allowing smoking on parts of their premises; many of the threats have resulted in the posting of warning signs and cash settlements with the groups.

ARB staff plans to consider listing ETS as a TAC on Dec. 13. The state's Scientific Review Panel is concerned about ETS, especially in light of efforts to increase protection of children through environmental standards. The panel in 1997 approved a Cal/EPA risk assessment report concluding that ETS is a health hazard and meets TAC requirements.

### DECISION DUE IN ENGINE MAKER CHALLENGE TO L.A. CLEAN-FLEET RULES

A U.S. District Court judge in Los Angeles is expected next month to rule on the Engine Manufacturers Association (EMA) lawsuit challenging the South Coast air district's clean-fleet rules. A hearing in the case is scheduled for May 21.

The EMA, in its August 2000 lawsuit, contends that several South Coast rules that prohibit in most cases government agencies and school districts from purchasing clean-diesel vehicles — and instead require the purchase of compressed natural gas (CNG) vehicles — violates federal preemption sections in the federal Clean Air Act. EMA argues that those sections bar any local mandates that establish any standards relating to the control of emissions for mobile sources, and that local provisions that effectively prohibit the sale of a California-certified vehicle are barred, according to an attorney.

South Coast officials argue that the clean-fleet rules don't require the specific manufacture of a different type of vehicle and therefore they do not trigger the federal preemption.

### DELAY OF PLANT-RETROFIT SCHEDULE THRUSTS ENERGY BILL TO FINAL VOTE

A substantial bill that includes power plant emissions banking provisions and other measures to expedite plant permitting is headed for a final vote in the Legislature, after the author amended a requirement for a schedule to expedite retrofit of plants with pollution-control technology within the year. The schedule is now delayed by one year — to July 2002 — and allows plants until Dec. 31, 2004 to complete the retrofits.

The bill, SB 28X (Sen. Byron Sher, D-Palo Alto), is

awaiting a final Senate vote, after clearing the Assembly April 23 by a 69-5 vote. It is expected to pass the Senate, possibly April 26, and move to Gov. Gray Davis.

Enough Republicans and Democrats in the Assembly had opposed the July 2001 retrofit schedule deadline to stall the bill (*see April 13 issue, p.1*). Republicans still called the measure a "baby step" to resolving the energy crisis and expediting the siting and permitting of new power generation facilities. Retrofit requirements to reduce air pollution contained in the previous version of the bill "would have encouraged power plants to shut down over the next four months — which is what we don't need," said one legislative source.

### AGRIBUSINESS URGES CONGRESS TO HARMONIZE STATE, FEDERAL DIESEL RULES

Agriculture industry leaders plan to meet with congressional and Bush Administration officials to push for a farm-friendly agenda, including a harmonization of California and federal diesel fuel standards. The energy crisis and trade issues dominate the main concerns of farmers, putting aside concerns about other burdensome environmental regulations.

The California Farm Bureau Federation (CFBF) plans to lead a May 5-9 trip of 20 state agriculture industry leaders to meet with members of the California Congressional Delegation and other leaders to explain key concerns. The CFBF created a task force earlier this year to prepare an agenda to take to Congress and the Legislature seeking legislative relief from burdensome regulations and other issues.

The cost and availability of diesel fuel for state farmers is a major concern and disadvantages California agriculture industry, according to a source. If federal diesel fuel standards were identical to those in California, the playing field between states would be level in this respect, the CFBF source said.

### DTSC PLANS TO CONSIDER LAB, CORRECTIVE ACTION REGULATIONS

Toxics officials plan later this year to consider changes to laboratory regulations and corrective action provisions, as well as limits on military munitions handling, storage and destruction. The proposed changes are listed in a department rulemaking calendar for 2001.

The Department of Toxic Substances Control plans to finalize its universal waste rule by August, ending several years of contentious debate over how to promote recycling of certain hazardous materials.

DTSC plans in early June to notice corrective action regulation changes to respond to hazardous waste releases, with changes finalized by December. Changes to laboratory regulation conditions applicable to all laboratories in the state will be proposed in November and finalized in July 2002, according to the rulemaking calendar. Military munition regulations clarifying how to handle, store and destroy obsolete munitions should be finalized by next May. Public workshops on the munitions issue were scheduled to be held this week, April 23 in Sacramento and April 26 in Los Angeles.